

SIXTY-EIGHTH DAY
(Friday, May 17, 1991)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Bivins, Glasgow, Green.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, accept our gratitude this morning for the promise of Your grace and undergirding care. Deepen our faith and confidence in one another, use our talents, engage whatever resources that are ours and may we merit all that we have. Guide us that we may guard and use our individual gifts with wisdom and generosity. Bless each Member this day in a special way and provide to them that extra measure of confidence and knowledge as they brave the many responsibilities before them. This is our prayer today in the name of Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Bivins was granted leave of absence for today on account of important business on motion of Senator Brooks.

CO-SPONSOR OF HOUSE BILL 1185

On motion of Senator Lucio and by unanimous consent, Senator Harris of Tarrant will be shown as Co-sponsor of H.B. 1185.

CO-AUTHOR OF SENATE BILL 1596

On motion of Senator Turner and by unanimous consent, Senator Moncrief will be shown as Co-author of S.B. 1596.

MESSAGE FROM THE HOUSE

House Chamber
May 17, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 26, Relating to the Texas Council on Offenders with Mental Impairments. (As substituted)

S.B. 87, Relating to the removal of junked motor vehicles.

S.B. 148, Relating to multiple prosecutions of offenses under the Texas Controlled Substances Act arising out of single criminal episodes. (As amended)

S.B. 276, Relating to notice of violations of certain municipal sanitation regulations.

S.B. 277, Relating to notices required to be given to certain owners of real property. (As substituted)

S.B. 323, Relating to the continuation and operation of the State Pension Review Board. (As amended)

S.B. 521, Relating to the regulation of medical physicists; providing penalties.

S.B. 532, Relating to securing criminal history record information for the employees of public school districts or employees of a public or commercial transportation company that contracts with a school district. (As substituted)

S.B. 643, Relating to processing irregularly marked ballots in a voting system without centralized counting. (As substituted)

S.B. 784, Relating to the creation, administration, powers, duties, operation, and financing of the Dallas County Utility and Reclamation District No. 1.

S.B. 815, Relating to compulsory pilotage services to or from ports in this state; imposing a civil penalty.

S.B. 865, Relating to the licensing and regulation of personal care facilities and to the repeal of laws requiring the registration of boarding homes or board and lodging homes for senior citizens or disabled persons; providing penalties. (As amended)

S.C.R. 125, In memory of Eugene W. Parrish III.

S.C.R. 128, In memory of Dr. Stephen R. Lewis.

S.C.R. 129, In memory of Lewis Harris.

S.C.R. 130, In memory of Thomas D. Hanstrom.

S.C.R. 132, In memory of Maurice A. Harr.

S.C.R. 124, Congratulating Ina Ivory Garner on her 100th birthday, April 18, 1991.

S.C.R. 126, Congratulating the parents and grandparents of Samuel Austin Schwartz.

S.C.R. 127, Expressing appreciation to Mrs. Margie Keating for her years of faithful service to the citizens of Texas.

S.C.R. 131, Paying tribute to the citizens of Rosanky, Texas, on the occasion of its 100th anniversary on May 26, 1991.

S.C.R. 133, Expressing gratitude to Dr. Wallace Mendelson for his exceptional contributions to the citizens of Texas.

S.C.R. 135, Commending and congratulating Carl Nafzger on winning both the Kentucky Derby and the Breeder's Cup Classic with Unbridled in 1990 and on receiving an Eclipse Award as the year's outstanding trainer.

H.C.R. 224, Honoring the city of Daingerfield on the occasion of its 150th anniversary on October 19, 1991.

H.C.R. 232, Commending the Sisters of the Incarnate Word and the Blessed Sacrament.

H.C.R. 243, In memory of Omar Burleson.

H.C.R. 180, Granting the National Hispanic Institute permission to use the chambers of the Texas Senate and House of Representatives on July 31 and August 1-2, 1991.

H.C.R. 103, Granting Bluebonnet Girls State permission to use the Senate and House chambers on June 17, 1991, and June 22, 1992.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILLS AND RESOLUTION

Senator Brooks moved to suspend Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) to permit the introduction of the following bills and resolution:

S.C.R. 146

S.B. 1608

S.B. 1609

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

H.C.R. 163	H.B. 944
H.C.R. 179	H.B. 960
H.B. 69	H.B. 1029
H.B. 393	H.B. 1184
H.B. 490	H.B. 1425
H.B. 538	H.B. 1444
H.B. 545	H.B. 1506
H.B. 550	H.B. 1578
H.B. 675	H.B. 1586
H.B. 922	H.B. 2183

REPORTS OF STANDING COMMITTEES

Senator Haley submitted the following report for the Committee on Administration:

S.B. 1602

Senator Lyon submitted the following report for the Committee on Criminal Justice:

C.S.H.B. 302

Senator Parker submitted the following report for the Committee on Education:

C.S.S.B. 1028

Senator Montford submitted the following report for the Committee on Finance:

S.J.R. 12
S.B. 1573
S.B. 1440
H.B. 1126
S.B. 1040
S.B. 1043
C.S.S.B. 1548
C.S.S.B. 1408
C.S.S.B. 1105
C.S.S.B. 681
C.S.H.B. 507
C.S.S.B. 1045
C.S.S.B. 1039
C.S.H.B. 191
C.S.S.B. 1513
C.S.S.B. 1051
C.S.H.B. 1584

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.B. 1495
H.B. 1976
H.B. 2069
H.B. 1367
C.S.H.B. 877
C.S.S.B. 938

Senator Dickson submitted the following report for the Committee on Economic Development:

H.B. 2136
H.B. 1392
H.B. 41
H.B. 1083
H.B. 952
H.B. 617
H.B. 616
H.B. 2161
S.B. 138
H.B. 1583
H.B. 278
H.B. 53
S.B. 1553
H.B. 816
H.B. 2263 (Amended)
C.S.S.B. 1374
C.S.H.B. 2825
C.S.H.B. 1204

C.S.H.B. 154
C.S.S.B. 868
C.S.S.B. 888
C.S.S.B. 889
C.S.S.B. 891
C.S.S.J.R. 29
C.S.S.J.R. 30
C.S.S.B. 432
C.S.H.B. 1258

Senator Sims submitted the following report for the Committee on Natural Resources:

S.B. 565
H.B. 60
H.B. 1683
H.B. 1809
H.B. 1022
H.B. 1581
H.B. 1757
H.B. 1986
H.B. 2760
H.B. 2215
H.B. 2214
H.B. 132
C.S.H.B. 1822
C.S.S.B. 1605
C.S.H.B. 1463

Senator Barrientos submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with the recommendation that they be confirmed.

To be INTERIM COMMISSIONER OF EDUCATION: Dr. Tom E. Anderson, Jr., Travis County.

To be Members of the BOARD OF DIRECTORS, TEXAS HOUSING AGENCY: John W. Hazard, Harris County; Arthur Navarro, Travis County.

To be Members of the DEPARTMENT OF INFORMATION RESOURCES: Jon Martin Bradley, Dallas County; R. D. "Dan" Burck, Travis County; William D. Stotesbery, Travis County.

To be Members of the TEXAS COMMISSION ON JAIL STANDARDS: Charles E. Chatman, Grayson County; Sheriff Joe Evans, Nacogdoches County.

To be Members of the TEXAS AGRICULTURAL DIVERSIFICATION BOARD: Ms. Polly Cummings, Lampasas County; Luis Mata, El Paso County; Maurice Owens, Waller County; Joe Bailey Pate, Jr., Lubbock County.

To be Members of the BOARD OF TRUSTEES, TEXAS GROWTH FUND: John H. Dalton, Bexar County; Gary G. Jacobs, Webb County.

To be a Member of the TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AUTHORITY: Tom Ingram, Midland County.

To be Members of the ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL: Mark Vernon Lowry, Wharton County; Leo L.

Rodriguez, Jr., Hidalgo County; William W. Tenison, Wood County; Samuel B. Vaughn, Jr., Rusk County; Willis Leo Wood, Williamson County.

To be a Member of the PRODUCT COMMERCIALIZATION ADVISORY BOARD: Ms. Bernice J. Washington, Dallas County.

To be Members of the TEXAS COUNCIL ON VOCATIONAL EDUCATION (appointed by State Board of Education): Mike Bickley, Angelina County; Lewis E. Cook, Harris County; Ms. Shirlene S. Cook, Jefferson County; Marcus Hill, Tarrant County; Ms. Ann F. Hodge, Harris County; Edward L. Lehman, Wilbarger County; Elbert Marcom, Williamson County; Dr. Ted Martinez, Jr., Dallas County; Jack C. Pennington, Collin County; Henry R. Sollers, La Salle County; Ms. Lillian J. Suchoff, Nueces County; Dr. Diane Troyer, El Paso County; William E. Zinsmeyer, Bexar County.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1214

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 15, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 1214 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER
BIVINS
MONTFORD
SIMS
TRUAN

On the part of the Senate

R. LEWIS
BOMER
EARLEY
KUEMPEL
SAUNDERS

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CAPITOL PHYSICIAN

Senator Sims was recognized and presented Dr. Ernie Sandidge of McCamey.

Dr. Sandidge, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

SENATE BILLS AND RESOLUTION ON FIRST READING

Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) having been suspended, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.C.R. 146 by Brooks Health and Human Services
Encouraging the Texas Department of Human Services to develop a system of appropriate rate setting methodology which has as its focus the goal of quality care in all necessary and desirable settings.

S.B. 1608 by Lucio Economic Development
Subcommittee on Insurance
Relating to creation, powers, and duties of the health care benefits pool and liability insurance program and use of funds earned by the program.

S.B. 1609 by Moncrief Finance
Relating to an exemption from penalties and interest on property taxes for military personnel in the Persian Gulf.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 131, To Committee on State Affairs.
H.B. 263, To Committee on Criminal Justice.
H.B. 769, To Committee on Jurisprudence.
H.B. 784, To Committee on Jurisprudence.
H.B. 907, To Committee on Finance.
H.B. 962, To Committee on State Affairs.
H.B. 1247, To Committee on Economic Development.
H.B. 1368, To Committee on State Affairs.
H.B. 1657, To Committee on Criminal Justice.
H.B. 1814, To Committee on Finance.
H.B. 1820, To Committee on State Affairs.
H.B. 1973, To Committee on Finance.
H.B. 2034, To Committee on Criminal Justice.
H.B. 2036, To Committee on Economic Development,
Subcommittee on Insurance.
H.B. 2110, To Committee on Finance.
H.B. 2158, To Committee on Jurisprudence.
H.B. 2287, To Committee on State Affairs.
H.B. 2345, To Committee on Criminal Justice.
H.B. 2495, To Committee on State Affairs.
H.B. 2595, To Committee on Finance.
H.B. 2818, To Committee on Intergovernmental Relations.
H.B. 2868, To Committee on Intergovernmental Relations.

GUESTS PRESENTED

Senator Moncrief was recognized and introduced students from William James Middle School in Fort Worth along with their teachers, Ginger Shackleford, Norma Garza, Ada Hart and Nell Knobe.

The Senate welcomed these guests.

CONFERENCE COMMITTEE ON HOUSE BILL 847

Senator Brooks called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 847** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 847** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chair; Sims, Carriker, Brown, Lucio.

SENATE RESOLUTION 378

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas proudly recognizes Hubert Bechtol of Austin on his recent election to the National Football Foundation's College Football Hall of Fame; and

WHEREAS, This award is the greatest honor that can be bestowed on a former player, and Hub Bechtol richly deserves it; and

WHEREAS, Highly talented, Hub Bechtol excelled in football at The University of Texas at Austin; he received All-American honors for three consecutive years from 1944 to 1946 and was inducted into the Longhorn Hall of Honor in 1963; and

WHEREAS, A valuable leader in the community, Hub has given countless hours of his time to promote youth sports in Austin; and

WHEREAS, Hub has also received the Boy Scouts Silver Beaver award for his dedicated service in organizing youth programs through the Boy Scouts of America; and

WHEREAS, Hub Bechtol is a distinguished and exemplary gentleman who merits recognition not only for his past athletic accomplishments but also for his generosity and concern for his fellowman; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby commend Hubert Bechtol on his election to the National Football Foundation's College Football Hall of Fame and on his many contributions to the community; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Sibley and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

An enrolled copy of the resolution, previously adopted by the Senate on March 20, 1991, was presented by the President.

GUEST PRESENTED

Upon recognition, Senator Barrientos introduced to the Senate Hubert Bechtol.

The Senate welcomed Mr. Bechtol and expressed congratulations.

(Senator Moncrief in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1181

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 16, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 1181 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER
BROWN
HALEY
MONCRIEF
SIMS

On the part of the Senate

HOLZHEAUSER
JACKSON
ROBNETT
H. CUELLAR
VON DOHLEN

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(President in Chair)

GUESTS PRESENTED

Senator Moncrief was recognized and, on behalf of Senator Glasgow, introduced a group of seventh and eighth grade students from Granbury Middle School and their teachers, Kimberly Meadows and Sharon Granthom, and sponsor, Dana Fenker.

The Senate welcomed these guests.

GUEST PRESENTED

Senator Brooks was recognized and introduced to the Senate Betty Jo Bevil, Deputy Administrator for Finance of the Texas Employment Commission, who is retiring after 33 years of service to the people of the State of Texas.

The Senate expressed congratulations.

An enrolled copy of S.C.R. 105, previously adopted by the Senate on Thursday, April 18, 1991, was presented to Ms. Bevil by the President.

(Senator Ratliff in Chair)

SENATE BILL 773 WITH HOUSE AMENDMENTS

Senator Henderson called S.B. 773 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment - Stiles

Amend S.B. 773 as follows: On page 4, between lines 5 and 6, add a new Subsection (f) to read as follows:

(f) The requirements imposed by Subsection (b) of this section and Subsections (b) and (c) of Section 3 of this article do not apply to an individual who applies for registration under this article before March 1, 1992, and who, on the date of the application, is licensed and on active status as a real estate broker under Article 6573a (the Real Estate License Act), Revised Statutes, unless the individual performs or supervises the performance of property tax consulting services for compensation in connection with a property that is not real property.

Amendment - Ogden

Amend S.B. 773 as follows: On page 3, between lines 24 and 25, add a new subsection (7) to read as follows:

(7) An individual who assists another person in the performance of property tax consulting services or provides testimony on behalf of the other person at a protest hearing under Subchapter C, Chapter 41, Tax Code, unless the individual is designated as the person's agent under Section 1.111, Tax Code, or more than fifty percent of the individual's employment time is devoted to or income is derived from performing or supervising the performance of property tax consulting services.

The amendments were read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendments to S.B. 773 by a viva voce vote.

(President in Chair)

GUESTS PRESENTED

Senator Moncrief was recognized and introduced a group of sixth grade students from Dunbar School of Fort Worth.

The Senate welcomed these students.

**COMMITTEE SUBSTITUTE
SENATE BILL 753 ON THIRD READING**

Senator Brooks moved that the regular order of business be suspended and that C.S.S.B. 753 be placed on its third reading and final passage.

C.S.S.B. 753, Relating to the management, coordination, supervision, and provision of public school health services.

The motion prevailed by the following vote: Yeas 19, Nays 7.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Haley, Johnson, Krier, Lucio, Lyon, Moncrief, Parker, Rosson, Sims, Tejada, Truan, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Ratliff, Sibley.

Absent: Montford, Turner.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Brown and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 1493 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1493, Relating to educational assistance to families in distress.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1493 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1493** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced a group of seventh and eighth grade students from Lamar Middle School in Laredo and their teacher, Raul Rodriguez, Jr.

The Senate welcome these guests.

SENATE BILL 1199 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1199, Relating to the offense of coercion of a public servant.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1199 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1199** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

**SENATE CONCURRENT RESOLUTION 112
ON SECOND READING**

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 112, Encouraging the Texas Supreme Court to establish an education program for members of the judiciary and legal profession to provide an increased awareness of the needs and rights of hearing-impaired Texans who are involved in legal or judicial matters.

The resolution was read second time and was adopted by a viva voce vote.

SENATE BILL 1562 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1562, Relating to the regulation of outdoor signs in certain areas of certain counties; providing a penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1562 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1562** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

SENATE BILL 1142 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1142, Relating to tuition and fee exemptions at institutions of higher education and public technical institutes for certain students in foster or other residential care.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1142 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1142** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1007 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1007, Relating to load and weight limits on highways and roads; providing civil penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1007 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1007 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1061 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1061, Relating to payroll deductions for certain qualified retirement plans.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1061 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 1061 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 66 ON SECOND READING**

On motion of Senator Dickson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 66, Relating to the jurisdiction and administration of certain county courts, to the creation of multicounty statutory county courts, and to the qualifications of office for and compensation for judges of certain courts.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 66 as follows:

(1) In SECTION 4, strike added Subsection (e)(1), Section 25.0005, Government Code (Committee Printing page 2, lines 16-19), and substitute:

(1) not later than September 1 of the year in which the county initially begins collecting fees and costs under Section 51.702, the county increases the salary of each statutory county court judge in the county to an amount that is at least \$20,000 more than the salary the judge was entitled to on May 1 of that year;

(2) In SECTION 58, added Subsection (a), Section 51.702, Government Code (Committee Printing page 14, lines 16-19), strike “(a) Upon the adoption of a

resolution by the commissioners court of the county, filed with the comptroller of the State of Texas not later than August 1 each year, authorizing the following fees and cost:

(3) In SECTION 58, added Subsection (a), Section 51.702, Government Code (Committee Printing page 14, line 20), strike "(1)" and substitute "(a)".

(4) In SECTION 58, added Subsection (a), Section 51.702, Government Code (Committee Printing page 14, line 25), strike "(2)" and substitute "(b)".

(5) In SECTION 58, added Subsection (b), Section 51.702, Government Code (Committee Printing page 14, line 35), strike "(b)" and substitute "(c)".

(6) In SECTION 58, added Subsection (c), Section 51.702, Government Code (Committee Printing page 14, line 38), strike "(c)" and substitute "(d)".

(7) In SECTION 58, added Subsection (d), Section 51.702, Government Code (Committee Printing page 14, line 41), strike "(d)" and substitute "(e)".

(8) In SECTION 58, added Section 51.702, Government Code (Committee Printing page 14, between lines 42 and 43), insert at the end the following new subsection:

(f) This section applies only to fees and costs for a 12-month period beginning July 1 in a county in which the commissioners court:

(1) adopts a resolution authorizing the fees and costs under this section for the 12-month period; and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the 12-month period during which the fees and costs are to be collected.

The amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 66 in SECTION 4, amended Subsection (a), Section 25.0005, Government Code (Committee Printing page 1, line 59), between "law" and the comma, by inserting "or a judge in whose court fees and costs under Section 51.702 are not collected".

The amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 66 in SECTION 56 by striking added Subsection (b)(3), Section 25.2602, Government Code (Committee Printing page 13, lines 36 and 37), and substituting:

"(3) a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment."

The amendment was read and was adopted by a viva voce vote.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 66 as follows:

(1) Insert the following new SECTION 17 to the bill (Committee Printing page 5, between lines 10 and 11), to read as follows:

SECTION 17. Sections 25.0522(a), (d), and (i), Government Code, are amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Coryell County has:

- (1) ~~[-]~~ concurrent with the county court, the probate jurisdiction provided by general law for county courts; and
- (2) concurrent jurisdiction with the district court in family law cases and proceedings.

(d) The judge of a county court at law may engage in the private practice of law ~~[not appear and plead as an attorney in any criminal case].~~

(i) Notwithstanding Section 25.0521, the County Court at Law of Coryell County is created October ~~[January]~~ 1, 1992, or on an earlier date determined by the commissioners court by an order entered in its minutes.

(2) Strike "25.0522(a) and (c);" from Section 61 of the bill (Committee Printing page 15, line 17), and substitute "25.0522(c);".

(3) Renumber the remaining sections of the bill accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 66 as follows:

(1) On page 3, between lines 65 and 66 insert the following:

SECTION 10. Section 25.0051, Government Code, is amended to read as follows:

Section 25.0052. Angelina County. Angelina County has the following [one] statutory county courts:

- (1) ~~[court]~~ the County Court of Angelina County; and
- (2) the County Court at Law No. 2 of Angelina County;

SECTION 11. Section 25.0052(a), Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.003 and other law, a county court at law in Angelina County has:

- (1) ~~[concurrent with the county court, the probate jurisdiction provided by general law county courts;]~~
- (2) concurrent jurisdiction with the district court in:
~~[(A) civil in which the matter in controversy exceeds \$500 but does not exceed \$10,000, excluding interest]~~ family law cases.

(3) On page 15, line 13 by striking "(a).";

(4) On page 15, between lines 42 and 43 by inserting the following:

SECTION 64. Notwithstanding Section 25.0051, Government Code, as amended by this Act, the County Court at Law No. 2 of Angelina County is created January 1, 1993.

SECTION 65. Notwithstanding Section 25.0009, Government Code, the initial vacancy in the office of judge on the creation of the County Court at Law No. 2 of Angelina County shall be filled by election. The office of judge of the County Court at Law No. 2 of Angelina County exists for the purpose of the primary and general elections in 1992. The qualified voters of the county shall elect the initial judge of the County Court at Law No. 2 of Angelina County at the general election in 1992 for a two year term beginning January 1, 1993. Thereafter, the judge shall be elected for a four-year term as provided by Article XVI, Section 65, of the Texas Constitution. A vacancy is filled as provided by Section, Government Code.

(5) and renumber all sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 66 on page 15, line 31, between "(d)" and ".", by inserting ", 45.103".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 66 ON THIRD READING**

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1216 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1216, Relating to an exemption from motor fuel taxes for certain providers of school transportation services.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1216 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 1216 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 17, 1991

**HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE**

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 154, Establishing a committee to designate the state artist.

H.C.R. 192, Declaring Mineola, Texas, the “City of Festivals.”

H.C.R. 31, Honoring Colonel E. L. R. Wheelock and granting permission for the erection of a monument.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 173 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 173, Relating to essential need driver's licenses.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 173 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 173** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 272 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 272, Relating to the election of members of the governing board of certain community college districts from single-member districts.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

Amend **H.B. 272** by striking lines 10 through 12 and substituting the following language:

“of more than 384,500 ~~[800,000]~~ residents shall”

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 272 ON THIRD READING

Senator Moncrief moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 272** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

**HOUSE CONCURRENT RESOLUTION 61
ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

H.C.R. 61, Directing the Texas Department on Aging and the Texas Department of Human Services to examine their existing policies regarding nutritional assistance for elderly persons.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE BILL 2553 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2553, Relating to the services and businesses eligible to hold an agricultural permit for transportation of agricultural commodities.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Amend **H.B. 2553** as follows:

In SECTION 1., Subsection (A) of **H.B. 2553** after the words "independent ginning service," and before "a grain or rice elevator business" insert the following: a cottonseed oilmill,

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 13, Nays 12.

Yeas: Armbrister, Brooks, Carriker, Ellis, Johnson, Moncrief, Montford, Ratliff, Rosson, Tejada, Truan, Whitmire, Zaffrini.

Nays: Barrientos, Brown, Haley, Harris of Tarrant, Henderson, Krier, Leedom, Lucio, Lyon, Parker, Sibley, Sims.

Absent: Dickson, Harris of Dallas, Turner.

Absent-excused: Bivins, Glasgow, Green.

The bill was passed to third reading by a viva voce vote.

HOUSE BILL 2553 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2553** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

HOUSE BILL 1361 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1361, Relating to temporary orders in a habeas corpus proceeding concerning the possession of a child.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1361 ON THIRD READING

Senator Harris of Tarrant moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1361** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2727 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2727, Relating to the creation of the office of public defender for the 293rd and 365th judicial districts.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2727 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2727** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 295 ON SECOND READING**

Senator Johnson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 295, Relating to discrimination by certain accommodations and associations; imposing civil penalties.

There was objection.

Senator Johnson then moved to suspend the regular order of business and take up **C.S.S.B. 295** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 6.

Yeas: Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Haley, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Harris of Tarrant, Leedom, Ratliff, Sibley, Sims.

Absent: Harris of Dallas.

Absent-excused: Bivins, Glasgow, Green.

The bill was read second time and was passed to engrossment by a viva voce vote.

**MOTION TO PLACE COMMITTEE SUBSTITUTE
SENATE BILL 295 ON THIRD READING**

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.B. 295 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 20, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Brooks, Carriker, Dickson, Ellis, Haley, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Brown, Harris of Tarrant, Henderson, Ratliff, Sibley, Sims.

Absent: Harris of Dallas.

Absent-excused: Bivins, Glasgow, Green.

HOUSE BILL 391 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 391, Relating to the punishment for certain family violence offenses.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 391 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 391 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

GUEST PRESENTED

The President acknowledged the presence in the Senate Chamber of United States Congressman Greg Laughlin.

The Senate welcomed Congressman Laughlin.

HOUSE BILL 1393 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1393, Relating to the renewal of a license held by an individual serving on active military duty.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend **H.B. 1393**, Sec. 2, line 42, after the words "armed forces" insert: serving outside the State of Texas.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1393 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1393** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

HOUSE BILL 1333 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1333, Relating to the selection of a municipal court clerk in certain home-rule municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1333 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1333** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 591 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 591, Relating to competitive bidding for certain purchases related to the construction and maintenance of county roads and bridges.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Amend **H.B. 591** by adding a new SECTION 2 to read as follows and renumber the remaining sections appropriately:

"SECTION 2. The public contract awarding entities shall establish a least cost review program for public improvements to be constructed by use of personnel, equipment, or facilities of the governmental entity. This least cost review shall determine, by the state auditor's cost accounting procedures and instructions relating to in-house cost estimates, as provided in Section 13.04, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), if the public improvements constructed by the governmental entity's personnel, equipment, or facilities is more cost effective than competitive bidding. Improvements estimated to be \$25,000 or less shall be exempt from preparing formal reports."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 591 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that H.B. 591 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1185 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1185, Relating to the use of criminal asset forfeiture funds for drug abuse treatment and prevention programs and certain law enforcement purposes.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1185 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 1185 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

(Senator Whitmire in Chair)

MOTION TO PLACE HOUSE BILL 2361 ON SECOND READING

Senator Ratliff asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2361, Relating to regulatory assessments collected by public utilities, water supply or sewer service corporations, and certain districts from their retail customers.

There was objection.

Senator Ratliff then moved to suspend the regular order of business and take up **H.B. 2361** for consideration at this time.

The motion was lost by the following vote: Yeas 10, Nays 16.

Yeas: Barrientos, Harris of Tarrant, Krier, Leedom, Lyon, Moncrief, Montford, Ratliff, Sibley, Sims.

Nays: Armbrister, Brooks, Brown, Dickson, Ellis, Haley, Henderson, Johnson, Lucio, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Absent: Carriker, Harris of Dallas.

Absent-excused: Bivins, Glasgow, Green.

FLOOR PRIVILEGES GRANTED

On motion of Senator Krier and by unanimous consent, floor privileges were granted to her guest.

HOUSE BILL 2758 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2758, Relating to payment of judgments not claimed by the prevailing party.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2758 ON THIRD READING

Senator Harris of Tarrant moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 2758** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 686 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 686, Relating to the student loan revenue bond fund administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 686 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 686 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Bivins, Glasgow, Green.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

SENATE BILL 880 WITH HOUSE AMENDMENTS

Senator Montford called S.B. 880 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment - Russell

Amend S.B. 880 by substituting the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to sentencing procedures in capital cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 37.071, Code of Criminal Procedure, is amended to read as follows:

Art. 37.071. **PROCEDURE IN CAPITAL CASE.** (a) Upon a finding that the defendant is guilty of a capital offense, the court shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death or life imprisonment. The proceeding shall be conducted in the trial court and, except as provided by Article 44.29(c) of this code, before the trial jury as soon as practicable. In the proceeding, evidence may be presented by the state and the defendant or the defendant's counsel as to any matter that the court deems relevant to sentence, including evidence of the defendant's background or character or the circumstances of the offense that mitigates against the imposition of the death penalty. This subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Texas. The state and the defendant or the defendant's [his] counsel shall be permitted to present argument for or against sentence of death. The court, the attorney representing the state, the defendant, or the defendant's counsel may not inform a juror or a prospective juror of the effect of a failure of a jury to agree on issues submitted under Subsection (c) or (e) of this article.

(b) On conclusion of the presentation of the evidence, the court shall submit the following [three] issues to the jury:

(1) ~~[whether the conduct of the defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased or another would result;~~

~~[(2)] whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; and~~

~~(2) in cases in which the jury charge at the guilt or innocence stage permitted the jury to find the defendant guilty as a party under Sections 7.01 and 7.02, Penal Code, whether the defendant actually caused the death of the deceased~~

or did not actually cause the death of the deceased but intended to kill the deceased or another or anticipated that a human life would be taken

[(3) if raised by the evidence, whether the conduct of the defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased].

(c) The state must prove each issue submitted under Subsection (b) of this article beyond a reasonable doubt, and the jury shall return a special verdict of "yes" or "no" on each issue submitted under Subsection (b).

(d) The court shall charge the jury that:

(1) in deliberating on the issues submitted under Subsection (b) of this article, it shall consider all evidence admitted at the guilt or innocence stage and the punishment stage, including evidence of the defendant's background or character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty;

(2) it may not answer any issue submitted under Subsection (b) of this article "yes" unless it agrees unanimously[;] and

[(2)] it may not answer any issue "no" unless 10 or more jurors agree; and

(3) members of the jury need not agree on what particular evidence supports a negative answer to any issue submitted under Subsection (b) of this article.

(e) The court shall instruct the jury that if the jury returns an affirmative finding to each issue submitted under Subsection (b) of this article, it shall answer the following issue:

Whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

(f) The court shall charge the jury that in answering the issue submitted under Subsection (e) of this article, the jury:

(1) shall answer the issue "yes" or "no";

(2) may not answer the issue "no" unless it agrees unanimously and may not answer the issue "yes" unless 10 or more jurors agree;

(3) need not agree on what particular evidence supports an affirmative finding on the issue; and

(4) shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

(g) If the jury returns an affirmative finding on each issue submitted under Subsection (b) of this article and a negative finding on an issue submitted under Subsection (e) of this article, the court shall sentence the defendant to death. If the jury returns a negative finding on any issue submitted under Subsection (b) of this article or an affirmative finding on an issue submitted under Subsection (e) of this article, or is unable to answer any issue submitted under Subsection (b) or (e) of this article, the court shall sentence the defendant to confinement in the institutional division of the Texas Department of Criminal Justice [Corrections] for life.

[(f) If a defendant is convicted of an offense under Section 19.03(a)(6), Penal Code, the court shall submit the three issues under Subsection (b) of this article only with regard to the conduct of the defendant in murdering the deceased individual first named in the indictment.

[(g) The court, the attorney for the state, or the attorney for the defendant may not inform a juror or a prospective juror of the effect of failure of the jury to agree on an issue submitted under this article.]

(h) The judgment of conviction and sentence of death shall be subject to automatic review by the Court of Criminal Appeals [within 60 days after

certification by the sentencing court of the entire record unless time is extended an additional period not to exceed 30 days by the Court of Criminal Appeals for good cause shown. Such review by the Court of Criminal Appeals shall have priority over all other cases, and shall be heard in accordance with rules promulgated by the Court of Criminal Appeals].

SECTION 2. Subsections (b) and (c), Article 44.29, Code of Criminal Procedure, are amended to read as follows:

(b) If the court of appeals or the Court of Criminal Appeals awards a new trial to a [the] defendant other than a defendant convicted of an offense under Section 19.03, Penal Code, only on the basis of an error or errors made in the punishment stage of the trial, the cause shall stand as it would have stood in case the new trial had been granted by the court below, except that the court shall commence the new trial as if a finding of guilt had been returned and proceed to the punishment stage of the trial under Subsection (b), Section 2, Article 37.07, of this code. If the defendant elects, the court shall empanel a jury for the sentencing stage of the trial in the same manner as a jury is empaneled by the court for other trials before the court. At the new trial, the court shall allow both the state and the defendant to introduce evidence to show the circumstances of the offense and other evidence as permitted by Section 3 of Article 37.07 of this code.

(c) If any court sets aside or invalidates the sentence of a defendant convicted of an offense under Section 19.03, Penal Code, and sentenced to death on the basis of any error affecting punishment only, the court shall not set the conviction aside but rather shall commence a new punishment hearing under Article 37.071 of this code as if a finding of guilt had been returned. The court shall empanel a jury for the sentencing stage of the trial in the same manner as a jury is to be empaneled by the court in other trials before the court for offenses under Section 19.03, Penal Code. [This section does not apply to convictions under Section 19.03 of the Penal Code. In such cases, the cause shall stand as it would have stood in case the new trial had been granted by the court below].

SECTION 3. Article 44.251, Code of Criminal Procedure, is amended to read as follows:

Art. 44.251. REFORMATION OF SENTENCE IN CAPITAL CASE.

(a) The court of criminal appeals shall reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice [Corrections] for life if:

[(1)] the court finds that there is insufficient evidence to support an affirmative answer to an issue submitted to the jury under Article 37.071(b) or a negative answer to an issue submitted to a jury under Article 37.071(e) of this code.

(b) The court of criminal appeals shall reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice for life if:

(1) the court finds reversible error that affects the punishment stage of the trial other than a finding of insufficient evidence under Subsection (a) of this article; and

(2) within 30 [15] days after the date on which the opinion is handed down, the date the court disposes of a timely request for rehearing, or the date that the United States Supreme Court disposes of a timely filed petition for writ of certiorari, whichever date is later, the prosecuting attorney files a motion requesting that the sentence be reformed to confinement for life.

(c) If the court of criminal appeals finds reversible error that affects the punishment stage of the trial only, as described by Subsection (b) of this article, and the prosecuting attorney does not file a motion for reformation of sentence in the period described by that subsection, the defendant shall receive a new sentencing trial in the manner required by Article 44.29(c) of this code.

SECTION 4. Section 12.31(b), Penal Code, is amended to read as follows:

(b) Prospective jurors shall be informed that a sentence of life imprisonment or death is mandatory on conviction of a capital felony. ~~[A prospective juror shall be disqualified from serving as a juror unless he states under oath that the mandatory penalty of death or imprisonment for life will not affect his deliberations on any issue of fact.]~~

SECTION 5. The change in law made by this Act applies to sentencing procedures in capital trials that occur on or after the effective date of this Act, whether the trials are for offenses committed before, on, or after the effective date of this Act and whether the procedures are part of the original trial of the offense, an award of a new trial for both the guilt or innocence stage and the punishment stage of the trial, or an award of a new trial only for the punishment stage of the trial.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment - McCollough

Amend C.S.S.B. 880, Section 5 to read as follows:

(a) The effective date of this Act is September 1, 1991, and the change in law made by this Act applies only to an offense that is committed on or after September 1, 1991. For purposes of this Act, an offense is committed before September 1, 1991, if every element of that offense occurs before that date.

(b) An offense before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Amend Section 6 as follows:

On page 8, lines 6 and 7, delete the words "and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendments were read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendments to S.B. 880 by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 239

The Presiding Officer laid before the Senate the following resolution:

H.C.R. 239, Directing the Enrolling and Engrossing Clerk of the House of Representatives to make the necessary corrections in **H.B. 1847**.

The resolution was read.

On motion of Senator Armbrister and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Lyon was recognized and introduced a group of students from Van High School.

The Senate welcomed these guests.

SENATE BILL 1460 WITH HOUSE AMENDMENT

Senator Brooks called S.B. 1460 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - Conley

Amend S.B. 1460 as follows:

On page 2, between lines 2 and 3, add a new Subsection (7).

(7) In making appointments under this section, the governor shall attempt to appoint members of different minority groups including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans.

The amendment was read.

On motion of Senator Brooks and by unanimous consent, the Senate concurred in the House amendment to S.B. 1460 by a viva voce vote.

SENATE BILL 787 WITH HOUSE AMENDMENTS

Senator Sims called S.B. 787 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment - Glaze

Amend S.B. 787 by striking Subsection (h) and substituting the following:

(h) Except as provided by this subsection, the [The] corporation may not undertake a project the primary purpose of which is to provide transportation facilities, [sewage or] solid waste disposal facilities, or air or water pollution control facilities, or facilities for furnishing water to the general public]. However, the corporation may provide those facilities to benefit property acquired for a project having another primary purpose. The corporation may undertake a municipal water supply project and provide related transmission and treatment facilities connected with a municipality owned or operated water system or sewage system.

Amendment - Grusendorf

Amend S.B. 787 by renumbering existing Section 2 of the bill to "Section 3," and adding a new Section 2 to the bill to read in its entirety as follows:

Section 2. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes, as added to said Act by S.B. 376, 72nd Session of the Texas Legislature, is amended by amending Subsection (c) to read as follows:

(c) The board of directors of a corporation under this section consists of seven directors who are appointed by the governing body of the eligible city for two-year terms of office. A director may be removed by the governing body of the eligible city at any time without cause. Each director must be a resident of the eligible city. At least four directors must be persons who are members of the governing body of the eligible city, and the remaining three directors shall be persons who are not employees, officers, or members of the governing body of the eligible city. [At least three directors must be persons who are not employees, officers, or members of the governing body of the eligible city. Members of the governing body, officers, and employees of the eligible city may be, but are not required to be, appointed to serve

as any of the remaining directors of the board.] A majority of the entire membership of the board is a quorum. The board shall conduct all meetings within the boundaries of the eligible city. The board shall appoint a president, a secretary, and other officers of the corporation that the governing body of the eligible city considers necessary. The corporation's registered agent must be an individual resident of the state and the corporation's registered office must be within the boundaries of the eligible city.

The amendments were read.

Senator Sims moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 787 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sims, Chair, Brooks, Bivins, Sibley, Armbrister.

SENATE BILL 692 WITH HOUSE AMENDMENT

Senator Haley called S.B. 692 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - B. Hunter

Amend S.B. 692 as follows:

Strike subsection (f), on page 8, lines 23-25 and page 9, lines 1-4.

The amendment was read.

Senator Haley moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 692 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Haley, Chair; Armbrister, Parker, Green, Ratliff.

CONFERENCE COMMITTEE ON HOUSE BILL 1313

Senator Lyon called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 1313 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on H.B. 1313 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chair; Zaffirini, Johnson, Parker, Sibley.

(Senator Haley in Chair)

SESSION TO CONSIDER EXECUTIVE APPOINTMENT

The Presiding Officer announced the time had arrived to consider the Executive Appointment of Judge Alice Oliver Trevathan, to be Chief Justice of the Court of Appeals, First Supreme Judicial District. Judge Trevathan was severed on Wednesday, May 15, 1991, and further consideration of her appointment was postponed until today. Notice of submission of this name for consideration was given yesterday by Senator Barrientos.

Senator Barrientos moved confirmation of the nominee reported by the Committee on Nominations.

NOMINEE CONFIRMED

The following nominee as reported by the Committee on Nominations was confirmed by the following vote: Yeas 23, Nays 3.

Yeas: Armbrister, Barrientos, Brown, Dickson, Ellis, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Brooks, Leedom, Sims.

Absent: Carriker, Harris of Dallas.

Absent-excused: Bivins, Glasgow, Green.

Chief Justice, Court of Appeals, First Supreme Judicial District: JUDGE ALICE OLIVER TREVATHAN, Harris County.

GUESTS PRESENTED

Senator Lyon was recognized and introduced students from Pilgrim Rest Christian Academy of Golden.

The Senate welcomed these students.

GUESTS PRESENTED

Senator Ellis was recognized and introduced students from Rose Elementary School of Harris County.

The Senate welcomed these students.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Barrientos gave notice that he would Monday, May 20, 1991, at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

SENATE BILL 993 WITH HOUSE AMENDMENT

Senator Whitmire called S.B. 993 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - Turner

Amend S.B. 993 as follows:

Delete SECTION 1 in its entirety and add the following language:

SECTION 1. Section 10, Chapter 432, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.2, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) to read as follows:

(b)(1) From September 1, 1981, until January 1, 1983, the city shall pay into the fund an amount equal to 18 percent of the salary or compensation paid all members of the fund. Beginning January 1, 1983, the city shall make monthly contributions to the pension fund in an amount equal to the contribution rate certified by the board and multiplied by the salaries paid to members of the fund. The board shall certify the city's contribution rate for each year beginning in 1983, based on the results of actuarial valuations made at least every three years, with the first such actuarial valuation to be made as of January 1, 1982. The city's contribution rate shall be comprised of the normal cost plus the level percentage of salary payment required to amortize the unfunded actuarial liability over a period of 40 years from January 1, 1983, calculated on the basis of an acceptable actuarial reserve funding method approved by the board. However, such contributions by the city shall not be less than twice the amount paid into the fund by contributions of the members.

(2) Notwithstanding the provisions of Section 10(b)(1) of this Act, if one or more members of the fund are appointed to positions within the fire department after August 31, 1991, and such appointments are not made based on the results of a competitive examination, the minimum contribution rate required of the city for any year after 1991 shall be increased by an amount equal to the difference, if any, between:

(A) the city's actuarially determined contribution rate determined under the provisions of Section 10(b)(1) of this Act, without regard to the minimum contribution rate specified therein, calculated based on the actual monthly salary or compensation for all members, and

(B) the city's actuarially determined contribution rate determined under the provisions of section 10(b)(1) of this Act, without regard to the minimum contribution rate specified therein, but for each member so appointed, calculated based, for all months of participation after the date of appointment, on the monthly salary or compensation being paid to the person who holds the position the member held immediately before the member was appointed to the new position.

SECTION 2 remains the same.

SECTION 3 remains the same.

The amendment was read.

On motion of Senator Whitmire and by unanimous consent, the Senate concurred in the House amendment to S.B. 993 by a viva voce vote.

SENATE BILL 1108 WITH HOUSE AMENDMENT

Senator Sims called S.B. 1108 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment - Oliveira

Amend S.B. 1108, page 2, line 17, to strike "the value of other" and substitute "proceeds from the sale of".

The amendment was read.

On motion of Senator Sims and by unanimous consent, the Senate concurred in the House amendment to **S.B. 1108** by a viva voce vote.

RECORD OF VOTE

Senator Parker asked to be recorded as voting "Present-not voting" on the concurrence in the House amendment to **S.B. 1108**.

SENATE CONCURRENT RESOLUTION 149

Senator Johnson offered the following resolution:

S.C.R. 149, Requesting that the Governor return **S.B. 333** to the Senate for further consideration.

The resolution was read.

On motion of Senator Johnson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

HOUSE RESOLUTIONS ON FIRST READING

The following resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 154, To Committee on Administration.

H.C.R. 103, To Committee on Administration.

H.C.R. 180, To Committee on Administration.

GUESTS PRESENTED

Senator Moncrief was recognized and, on behalf of Senator Glasgow, introduced a group of students from Stephenville Junior High School "Gifted and Talented Program" and their sponsor, Janis Patronis.

The Senate welcomed these guests.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 524

Senator Carriker submitted the following Conference Committee Report:

Austin, Texas
May 14, 1991

Honorable Bob Bullock
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 524** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARRIKER
BARRIENTOS
DICKSON
HENDERSON

CAIN
BLACK
FINNELL
A. HILL

TURNER

On the part of the Senate

RUSSELL

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Natural Resources might meet to consider S.B. 1015 today.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Haley announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 9:00 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

RECESS

On motion of Senator Brooks, the Senate at 1:46 p.m. took recess until 9:00 a.m. tomorrow.

**SIXTY-EIGHTH DAY
(Continued)
(Saturday, May 18, 1991)****AFTER RECESS**

The Senate met at 9:00 a.m. and was called to order by Senator Haley.

SENATORS ANNOUNCED PRESENT

Senator Glasgow, who had previously been recorded as "Absent-excused," was announced "Present."

Senator Green, who had previously been recorded as "Absent-excused," was announced "Present."

Senator Bivins, who had previously been recorded as "Absent-excused," was announced "Present."

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Sims submitted the following report for the Committee on Natural Resources:

C.S.H.B. 2454**C.S.H.B. 456****C.S.H.B. 1374****C.S.H.B. 1763**